

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**ENNIO RABANALES AND
EIDIS RABANALES**

vs.

**STATE FARM LLOYDS AND
RYAN CROSBY**

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**C.A. NO. 4:19-cv-04036
(JURY)**

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

STATE FARM LLOYDS ("State Farm"), Defendant in the above-styled and numbered cause, files this Notice of Removal of the present case from the 157TH Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. In connection with this Notice of Removal, State Farm would respectfully show the Court as follows:

**I.
PROCEDURAL BACKGROUND**

1. On September 10, 2019, Plaintiff filed this action against State Farm and Ryan Crosby in the 157th Judicial District Court of Harris County, Texas. The state court cause number is 2019-65375 ("State Court Action"). In Plaintiff's Original Petition ("Original Petition"), Plaintiff seeks monetary relief over \$200,000. (*See* Pl.'s Original Pet. at ¶ 5.) State Farm was served on September 17, 2019. State Farm filed its answer on October 7, 2019.

2. In accordance 28 U.S.C. § 1446, State Farm files this Notice of Removal to remove the State Court Action from the 157th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

II.
NATURE OF SUIT

3. Plaintiff filed this lawsuit alleging State Farm failed to pay insurance benefits owed to him in accordance with his insurance policy for damage to his home and other property caused by wind. (*See* Pl.’s Original Pet. at ¶¶ 9–17.) Plaintiff asserts causes of action for breach of contract and for violations of Chapters 541 and 542 of the Texas Insurance Code, and breach of the common law duty of good faith and fair dealing. (*Id.* at 46–58.)

III.
BASIS OF REMOVAL

4. The Southern District of Texas has jurisdiction over this action, pursuant to 28 U.S.C § 1441 and 28 U.S.C. § 1332, because the parties are diverse and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

5. First, the parties are diverse. At all relevant times, Plaintiff was, and continues to be, a Texas citizen. (*See* Pl.’s Original Pet. at ¶ 3.) Ryan Crosby was, and continues to be, a Colorado citizen. (*See* Pl.’s Original Pet. at ¶ 4.) State Farm is an association of individual underwriters authorized to conduct business in Texas as a Lloyd’s plan insurer, which is defined and set out in Chapter 941 of the Texas Insurance Code. The citizenship of an unincorporated association is determined by the citizenship of each member of the entity, not by the state where the entity is organized. *Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882–83 (5th Cir. 1993) (finding that a Lloyd’s plan association was not a Texas citizen); *see also Griggs v. State Farm Lloyds*, 181 F.3d 694, 698 (5th Cir. 1999) (finding that State Farm Lloyds is a citizen of Illinois). At all relevant times, State Farm was, and continues to be, an unincorporated insurance association whose underwriters were, and still are, citizens of states other than Texas. (*See* Aff. of Michael Roper attached hereto.) Accordingly, State Farm is not a citizen of the State of Texas.

6. Second, the amount in controversy exceeds \$75,000. Plaintiff is seeking damages in excess of \$200,000. Specifically, Plaintiff is seeking damages between \$200,000 and \$1,000,000. (See Pl.'s Original Pet. ¶ 5.) Thus, removal to the Southern District of Texas is proper.

IV. REMOVAL PROCEDURES

7. On September 10, 2019, Plaintiff filed this case against State Farm and Ryan Crosby in the 157th Judicial District Court of Harris County, Texas. State Farm was served on September 17, 2019. State Farm filed its Answer on October 7, 2019. This Notice of Removal is being timely filed on October 16, 2019. Accordingly, this Notice of Removal is timely filed within 30 days of when State Farm received service and within one year from the commencement of this suit. *See* 28 U.S.C. § 1446(b)(1); 28 U.S.C. § 1446(c)(1).

8. The Houston Division of the Southern District of Texas is the proper venue because: (1) Plaintiff's property, which was allegedly damaged by wind or hail and which forms the basis of Plaintiff's lawsuit, is located in Harris County, 28 U.S.C. § 1391(b)(2), and (2) Plaintiff's State Court Action was brought, and is pending, in Harris County. *See* 28 U.S.C. § 1441(a). Harris County is within the jurisdictional limits of the Houston Division. *See* 28 U.S.C. § 124(b)(2).

9. All information and documents required by 28 U.S.C. § 1446(a) and by Local Rule 81 to be filed with this Notice of Removal are attached and indexed in Exhibit A. In addition, pursuant to 28 U.S.C. § 1446 (d), a copy of this Notice of Removal will be promptly filed with the Harris County District Clerk's Office and served on the Plaintiff.

10. A jury fee was paid in state court and Defendant hereby requests a jury trial in this cause of action.

V.
PRAYER

11. State Farm respectfully requests that the above-styled action now pending in the 157th Judicial District Court of Harris County, Texas, be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered for State Farm and against Plaintiff, that State Farm recover its costs, and for such other and further relief to which State Farm may be justly entitled.

Respectfully submitted,

GERMER PLLC

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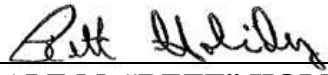
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel pursuant to the Federal Rules of Civil Procedure on this the 16th day of October, 2019.

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VIA E-SERVICE



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EXHIBIT A

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INDEX OF DOCUMENTS FILED WITH REMOVAL ACTION

ENNIO AND EIDIS RABANALES VS. STATE FARM LLOYDS

- (a) Plaintiff's Original Petition
- (b) Notice of Service of Process
- (c) Defendants' First Amended Answer
- (d) Docket Sheet